

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

KATRINA JOLLY, a minor by and through
DEANNA JOLLY, her mother and Next of Friend,

Plaintiff,

vs.

Civ. No. 97-1271 JP/WWD

HEATHER WILSON, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon a Motion to Compel Compliance to a Subpoena Duces Tecum filed by Plaintiff on February 3, 1998. Plaintiff anticipates that the State of New Mexico, a non-party, will object to the production of the documents sought in its subpoena duces tecum. Although the individuals named may be employees of the State of New Mexico, I do not find that their lack of opposition to the order sought by Plaintiff is the same as a lack of opposition to such an order by the State of New Mexico. Although such an order may be entered in due course, I will not enter it prior to a response by the State of New Mexico or a failure by the State of New Mexico to object to the aforementioned subpoena duces tecum pursuant to Rule 45(c).

WHEREFORE,

IT IS ORDERED that Plaintiff's Motion to Compel Compliance to a Subpoena Duces Tecum be, and it hereby is, denied without prejudice.


UNITED STATES MAGISTRATE JUDGE